

## **§ 1.901**

## **38 CFR Ch. I (7–1–03 Edition)**

### **§ 1.901 Omissions not a defense.**

The standards set forth in §§ 1.900 through 1.954 shall apply to VA handling of civil claims for money and property but the failure of the agency to comply with any provision of the standards shall not be available as a defense for any debtor.

[52 FR 42105, Nov. 3, 1987]

### **§ 1.902 Fraud, antitrust and tax claims excluded.**

(a) The standards set forth in §§ 1.900 through 1.954 do not apply to the handling of any claim as to which there is an indication of fraud, the presentation of a false claim, or misrepresentation on the part of the debtor or any other party having an interest in the claim, or to any claim based in whole or in part on violation of the antitrust laws. Only the Department of Justice has authority to compromise, suspend, or terminate collection action on such claims.

(b) Upon identification of a claim of any of the types described in paragraph (a) of this section (an indication of fraud, the presentation of a false claim, or misrepresentation on the part of the debtor or any other party having an interest in the claim), VA shall refer the matter promptly to the Department of Justice. At its discretion, the Department of Justice may determine that no action is warranted and return the claim to VA for further handling in accordance with §§ 1.900 through 1.954.

(c) VA has no authority to consider or compromise Federal tax claims, as to which differing exemptions, administrative considerations, enforcement considerations, and statutes apply.

(d) Sections 1.900 through 1.954 do not apply to claims between Federal agencies. VA shall attempt to resolve inter-agency claims by negotiation. Any unresolved claims shall be referred to the General Accounting Office (GAO) for final resolution.

(Authority: 37 U.S.C. 3711)

[52 FR 42105, Nov. 3, 1987]

### **§ 1.903 Settlement, waiver, or compromise under other statutory or regulatory authority.**

Nothing in §§ 1.900 through 1.954 is intended to preclude VA settlement,

waiver, or compromise of claims under statutes other than the Federal Claims Collection Act. See, e.g. 38 U.S.C. 3720(a)(4) and (5) and 5302(a) and 42 U.S.C. 2651–2653. Nor are §§ 1.900 through 1.954 intended to preclude Department of Veterans Affairs settlement, waiver, or compromise of claims under § 17.48(f) of this chapter for the cost of medical or hospital care furnished pursuant to § 17.47 (c)(1) or (d) of this chapter to persons who are entitled to hospital care or medical or surgical treatment or to reimbursement for all or part of the cost thereof by reason of “workmen’s compensation” or “employer’s liability” statutes, State or Federal; right to maintenance and cure in admiralty; or statutory or other relationships with third parties, giving rise to liability for damages because of negligence or other legal wrong.

[32 FR 2613, Feb. 8, 1967, as amended at 52 FR 42105, Nov. 3, 1987]

### **§ 1.904 Conversion claims.**

The instructions contained in §§ 1.900 through 1.954 are directed primarily to the recovery of money on behalf of the Government and the circumstances in which the Department of Veterans Affairs may dispose of claims for less than the full amount. In addition, the Department of Veterans Affairs will assert demands for the return of specific property or the payment of its value in cases of conversion.

### **§ 1.905 Subdivision of claims not authorized.**

Claims shall not be subdivided in order to avoid the monetary ceiling established by 31 U.S.C. 3711(a)(2). A debtor’s liability arising from a particular transaction or contract shall be considered as a single claim in determining whether the claim is one of less than \$20,000, exclusive of interest and administrative costs, either for purposes of suspension or termination of collection action (§§ 1.940 through 1.943) or for determining the applicability of the \$20,000 limit with respect to compromise (§§ 1.930 through 1.938).

(Authority: 31 U.S.C. 3711)

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